

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

RODNEY EUGENE BLACK,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 3:16-cv-1187-JPG-DGW
)	
CHARLES PAULIUS and KEVIN KAYS,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

This matter comes before the court on the Report and Recommendation (“R&R”) (Doc. 33) of Magistrate Judge Donald G. Wilkerson with regard to defendant Kevin Kays’s Motion to Dismiss with Prejudice and to Substitute the United States of America as Defendant. (Doc. 21.) The Court may accept, reject, or modify—in whole or in part—the findings or recommendations of the magistrate judge in a report and recommendation. Fed. R. Civ. P. 72(b)(3). The Court must review *de novo* the portions of the report to which objections are made. *Id.* “If no objection or only partial objection is made, the district court judge reviews those unobjected portions for clear error.” *Johnson v. Zema Sys. Corp.*, 170 F.3d 734, 739 (7th Cir. 1999).

The Court has received no objection to the Report. The Court has reviewed the entire file and finds that the Report is not clearly erroneous. Accordingly, the Court hereby:

- **ADOPTS** the Report in its entirety (Doc. 33);
- **GRANTS** defendant Kevin Kays’s Motion to Dismiss with Prejudice and to Substitute the United States of America as Defendant (Doc. 21);
- **DISMISSES WITH PREJUDICE** defendant Kevin Kays;
- **ADDS** the United States of America as a defendant; and
- **AMENDS** the screening order to include the following claim:

- **Count Two:** Medical negligence and malpractice claim against Defendant United States of America under the Federal Tort Claims Act for the actions of Kevin Kays who failed to adequately treat Plaintiff's abscessed tooth at Saline County Jail in 2016.

IT IS SO ORDERED.

DATED: September 7, 2017

s/ J. Phil Gilbert
J. PHIL GILBERT
DISTRICT JUDGE